

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

PEGGY BURT,

PLAINTIFF,

VS.

CIVIL ACTION NO. 2:07CV012-P-B

GRAND CASINO TUNICA, INC., ET AL.,

DEFENDANTS.

PARTIAL FINAL JUDGMENT

This matter comes before the court upon Defendant Temptin Temptations, Inc.'s Motion to Dismiss Under Rule 12(b) [101]. After due consideration of the motion, the court finds as follows, to-wit:

Defendant filed the instant motion to dismiss on December 5, 2008. The deadline to respond to the motion passed on December 22, 2008. The plaintiff filed no response, nor has she otherwise contacted the court for additional time to do so. Local Rule 7.2(c)(3) requires a party to notify the court if it intends not to respond to a motion. Local Rule 7.2(c)(2) allows the court to grant a motion to which no response was filed. In any event, since the merits of the motion remain undisputed, the court concludes that the plaintiff's claims against Temptin Temptations, Inc. should be dismissed without prejudice pursuant to Fed. R. Civ. P. 12(b) for failure to properly and timely serve the Complaint.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant Temptin Temptations, Inc.'s Motion to Dismiss Under Rule 12(b) [101] is **GRANTED**; therefore,

(2) All of the plaintiff's claims against Temptin Temptations, Inc. are **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED this the 25th day of February, A.D., 2009.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE